

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2009-326-C

In Re:)	
State Universal Service Support of Basic)	RESPONSE TO MOTION TO COMPEL OF
Local Service Included in a Bundled)	SCCTA, COMPSOUTH, TW TELECOM OF
Service Offering or Contract Offering)	SOUTH CAROLINA LLC, AND NUVOX
)	COMMUNICATIONS INC.

Pursuant to 26 S.C. Ann. Regs. 103-829 (Supp. 2008), the South Carolina Office of Regulatory Staff (“ORS”) hereby submits its Response to the Motion to Compel of the South Carolina Cable Television Association, CompSouth, tw telecom of south carolina llc, and Nuvox Communications, Incorporated (“CLECs”).

On August 13, 2009, ORS was served with three discovery requests by the CLECs. The first request sought information provided by the carriers of last resort (“COLRS”) to the ORS as required by Commission order. The forms are entitled *South Carolina Annual Universal Service Fund ILEC Data Report* and the *South Carolina State USF Per Line Support Calculation*.

Specifically, CLEC Request No. 1-1 states as follows:

Please provide copies of any and all documents submitted by the Carriers of Last Resort (“COLR”) to ORS in regard to the COLR’s requests for distributions from the South Carolina Universal Service Fund for each of the years 2005 through the present. The requested documents include, but are not limited to, the *South Carolina Annual Universal Service Fund ILEC Data Report* and the *South Carolina State USF Per Line Support Calculation*.

ORS objected to the production of Request No. 1-1 on two grounds. First, ORS respectfully submits that the information sought is not relevant and is not reasonably calculated to lead to the discovery of admissible evidence. 26 S.C. Code Ann. Regs. 103-833 (A) (Supp. 2008), provides that any material *relevant* to the subject matter involved in the pending proceeding may be discovered. CLECs argue in their motion that they need to know how the COLRs are reporting and accounting for “eligible lines.” The answer is *all* lines (bundled or unbundled) that include basic local service are counted for purposes of state USF support. There is no differentiation – to our knowledge, there never has been. ORS informed counsel for the CLECs of this fact and offered to stipulate that the information provided on the forms does **NOT** distinguish between lines associated with a bundle or contract versus lines that solely provide basic local service. ORS is willing to stipulate to this fact from years 2005 to the present.

In light of the foregoing and given that the issue pending in this docket is quite narrow, it is unclear what relevant information would be gleaned from the submitted forms, and the CLECs do not offer any other basis to support their claim that this information is relevant to the pending matter.

The second ground for ORS’s refusal to provide the information requested is based on ORS’s interpretation of prior Commission orders that the information supplied by the COLRs should be treated as confidential and only released publically in aggregate form. As the fund administrator appointed by the Commission, ORS takes the position that it is entrusted with the information supplied by the COLRs. Unlike other litigation where a party produces its proprietary information subject to a confidentiality agreement, the information sought here is supplied to ORS by numerous companies as a result of Commission order. ORS only has such possession because of its designated role as the fund administrator. Certainly companies that are

ordered by the Commission to provide ORS confidential information need to know that ORS will not simply execute a confidentiality agreement and hand over company proprietary data.

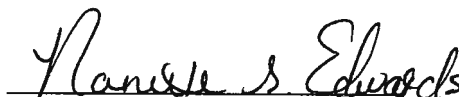
ORS would draw the Commission's attention to Order No. 2005-139, wherein the Commission granted the South Carolina Telephone Coalition's Motion for a Protective Order finding that information provided to ORS as the Fund Administrator shall be afforded confidential treatment unless the Commission enters an order to the contrary. The Commission then extended the provisions of Order No. 2005-139 to all telecommunications carriers who submit USF information to the Commission and ORS in Order No. 2005-185. Finally, the Universal Service Fund guidelines provide as follows:

VIII. Responsibilities of the Administrator

B. The data necessary to administer the SC USF shall be handled in a proprietary manner. Total industry aggregated data may be released, as determined by the Commission, so long as no individual company's data is discernible. *See* Order No. 2001-954 (Exhibit B).

WHEREFORE, for the reasons set forth above and in its Response, ORS requests that the Commission deny CLEC's request for a Motion to Compel.

Respectfully submitted,



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September 28, 2009
Columbia, SC